

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #15	CCRB Case #: 201908979	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/11/2019 7:51 PM	Location of Incident: 2137 Knapp Street; 61st Precinct stationhouse	Precinct: 61	18 Mo. SOL 4/11/2021	EO SOL 11/26/2021	
Date/Time CV Reported Sun, 10/13/2019 10:44 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 10/13/2019 10:44 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Elizabeth Drozd-Spidle	07902	943190	061 PCT
2. POM Vincent Giaquinto	13765	960588	061 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM James O'Neill	03160	963672	061 PCT
2. POM Osman Waheed	00636	960064	061 PCT
3. SGT Dmitry Durets	00390	921305	061 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Elizabeth Drozd-Spidle	Abuse: At 2137 Knapp Street in Brooklyn, Police Officer Elizabeth Drozd-Spidle searched the vehicle in which § 87(2)(b) was an occupant.	
B.POM Vincent Giaquinto	Force: At 2137 Knapp Street in Brooklyn, Police Officer Vincent Giaquinto pointed his gun at § 87(2)(b)	
C.POM Vincent Giaquinto	Abuse: At 2137 Knapp Street in Brooklyn, Police Officer Vincent Giaquinto damaged § 87(2)(b)'s property.	
D.POM Vincent Giaquinto	Abuse: At 2137 Knapp Street in Brooklyn, Police Officer Vincent Giaquinto seized § 87(2)(b)'s property.	
E.POF Elizabeth Drozd-Spidle	Abuse: At 2137 Knapp Street in Brooklyn, Police Officer Elizabeth Drozd-Spidle seized § 87(2)(b)'s property.	
F.POM Vincent Giaquinto	Abuse: At the 61st Precinct stationhouse, Police Officer Vincent Giaquinto searched the vehicle in which § 87(2)(b) was an occupant.	
G.POF Elizabeth Drozd-Spidle	Abuse: At the 61st Precinct stationhouse, Police Officer Elizabeth Drozd-Spidle searched the vehicle in which § 87(2)(b) was an occupant.	

Case Summary

On October 13, 2019, § 87(2)(b) filed this complaint with the CCRB via the website.

At approximately 7:51 p.m. on October 11, 2019, Police Officer Elizabeth Drozd-Spidle and Police Officer Vincent Giaquinto of the 61st Precinct pulled § 87(2)(b) over in front of 2137 Knapp Street in Brooklyn and accused him of speeding and of creating unreasonable noise with his vehicle. When Police Officer Giaquinto asked § 87(2)(b) to produce his driver's license, vehicle registration and proof of insurance, § 87(2)(b) started looking around the interior of his vehicle for the documents. While doing so, he opened his center console, which contained two folding knives. Police Officer Giaquinto asked § 87(2)(b) to exit his vehicle. Once § 87(2)(b) got out, Police Officer Drozd-Spidle reached into the vehicle and removed the two knives (**Allegation A: Abuse of Authority – Vehicle search**, § 87(2)(g), § 87(2)(b)) then reached towards his pockets to take out his phone. Police Officer Giaquinto drew and allegedly pointed his gun at § 87(2)(b) (**Allegation B: Force – Gun pointed**, § 87(2)(g)). He put his gun away when he saw that § 87(2)(b) was only reaching for his phone. § 87(2)(b) was ultimately unable to produce identification at the scene of the stop, so he was handcuffed and taken into custody. Police Officer Giaquinto allegedly damaged § 87(2)(b)'s watch while applying the handcuffs (**Allegation C: Abuse of Authority – Property damage**, § 87(2)(g)).

Officers also took custody of § 87(2)(b)'s vehicle and transported it to the 61st Precinct stationhouse (**Allegations D and E: Abuse of Authority – Seizure of property**, § 87(2)(g)). There, Police Officer Drozd-Spidle and Police Officer Giaquinto conducted a full search of the vehicle (**Allegations F and G: Abuse of Authority – Vehicle search**, § 87(2)(g)). They recovered a replica revolver from the vehicle. § 87(2)(b) was ultimately charged with § 87(2)(b) (Board Review #01).

Ten clips of body-worn camera (BWC) footage was obtained from this incident. The footage is attached in IAs #46-56 (Board Review #02-12) and summarized in IA #62 (Board Review #13). A subclip taken from Police Officer Giaquinto's BWC footage has been attached in IA #72 (Board Review #14).

§ 87(2)(b) alleged that officers seized a case of bottled water that he carried in his vehicle and subsequently consumed it themselves rather than returning it to him. An IAB spin-off, CCRB #§ 87(2)(b) was generated to address this issue.

Findings and Recommendations

Allegation (A) Abuse of Authority: At 2137 Knapp Street in Brooklyn, Police Officer Elizabeth Drozd-Spidle searched the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) was interviewed at the CCRB on October 31, 2019. Police Officer Giaquinto was interviewed at the CCRB on January 9, 2020. Police Officer Drozd-Spidle was interviewed at the CCRB on January 15, 2020.

It is undisputed that after Police Officer Giaquinto and Police Officer Drozd-Spidle pulled § 87(2)(b) over, Police Officer Giaquinto requested § 87(2)(b)'s license and registration. § 87(2)(b) did not have these documents with him at the time. While still seated in the driver's seat, § 87(2)(b) started reaching around the interior of the vehicle to look for his documents. During his search, he opened his vehicle's center console. Inside were two folding knives, one with a

wooden handle and another with a dark-colored handle. § 87(2)(b) did not remove either knife from the center console. He then stepped out of the vehicle. After he exited, Police Officer Drozd-Spidle leaned into the front seat of the vehicle, reached into the center console and removed the two knives. § 87(2)(b) was not arrested until after the knives were recovered. He was not frisked prior to his arrest. The vehicle was not searched again until after § 87(2)(b) was arrested and the vehicle was transported to the 61st Precinct stationhouse.

Both officers stated that Police Officer Giaquinto noticed the knives before Police Officer Drozd-Spidle did. Police Officer Giaquinto stated that he first noticed the two knives when § 87(2)(b) opened the center console to look for paperwork. Police Officer Giaquinto stated that he pointed the knives out to Police Officer Drozd-Spidle while § 87(2)(b) was still inside. Police Officer Drozd-Spidle stated that Police Officer Giaquinto told her there were two knives in the center console after § 87(2)(b) exited the vehicle.

Police Officer Drozd-Spidle decided to remove the knives from the vehicle because they posed a threat to her and Police Officer Giaquinto's safety. She reached into the center console and took both knives. She also reached inside the paper bag because she had seen § 87(2)(b) reach inside it earlier. She did not remove anything from the bag.

A subclip taken from Police Officer Giaquinto's BWC footage has been attached in IA #72 (Board Review #14). It shows Police Officer Giaquinto standing at the rear of the vehicle with § 87(2)(b). At the start of the subclip, Police Officer Giaquinto asks § 87(2)(b) why he has two knives in his center console. He states, "One of them is like a stiletto, and then the other one is a black one." Police Officer Drozd-Spidle walks to the side of the vehicle and announces that she is going to check the VIN number on the inside of the door. Police Officer Giaquinto tells her, "You can search the car. There's two knives in the center console." § 87(2)(b) states, "No, no, you can't search the car." PO Drozd-Spidle opens the door and kneels next to it while examining her cell phone. At 1:30 into the recording, § 87(2)(b) states, "I don't consent to a search." Police Officer Giaquinto replies, "That's fine, you don't have to. It's in plain view." At 2:10 into the recording, Police Officer Giaquinto points towards the vehicle and says, "Center console." Police Officer Drozd-Spidle then leans into the driver's seat. Her actions inside the vehicle are not seen. At 2:40 into the recording, Police Officer Drozd-Spidle exits the door and closes it behind her. Police Officer Giaquinto's BWC footage does not show if there was a bag in the front seat of the vehicle.

Police Officer Drozd-Spidle's BWC footage is attached in IA #46 (Board Review #02). At 9:44 into that recording, she leans into the driver's seat of the vehicle. The camera angle does not, however, show where she reached inside the vehicle. It does not show if there was a bag on the front passenger's seat.

The property vouchers prepared for § 87(2)(b)'s arrest list a switchblade with a wood handle as arrest evidence. It does not indicate the size of the blade (Board Review #15).

§ 87(2)(g)

An officer may conduct a warrantless search of a vehicle when they have probable cause to believe that the vehicle contains contraband, a weapon or evidence of a crime. Absent probable cause, it is unlawful for a police officer to invade the interior of a stopped vehicle once the suspects have been removed and patted down without incident. A narrow exception to this rule exists in circumstances

where, following a lawful stop, facts revealed during a proper inquiry or other information gathered during the course of the encounter lead to the conclusion that a weapon located within the vehicle presents an actual and specific danger to the officer's safety sufficient to justify a further intrusion, notwithstanding the suspect's inability to gain immediate access to that weapon. People v. Baksh, 113 A.D.3d 626 (App. Term, 2nd Dept., 2014) (Board Review #16).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Force: At 2137 Knapp Street in Brooklyn, Police Officer Vincent Giaquinto pointed his gun at § 87(2)(b)

It is undisputed that after § 87(2)(b) exited his vehicle, he stood with Police Officer Giaquinto near the rear of the vehicle. Police Officer Giaquinto did not frisk or search § 87(2)(b) during that time. While at the rear of the vehicle, § 87(2)(b) reached into one of his pants pockets to retrieve his cell phone. Police Officer Giaquinto reacted by reaching for his gun, which was holstered on his right hip. § 87(2)(b) told Police Officer Giaquinto that he was only taking out his phone. Police Officer Giaquinto then put his gun back in his holster.

§ 87(2)(b) stated that before he reached into his pocket, he stated aloud, "I'm going to make a call." When he reached into his pocket, Police Officer Giaquinto drew his gun and held it by his hip, pointed towards § 87(2)(b).

Police Officer Giaquinto stated that § 87(2)(b) reached into his pocket without giving a warning. Police Officer Giaquinto feared that § 87(2)(b) might be reaching for a weapon because he had already seen that § 87(2)(b) was in possession of the two knives in the center console. He also noted that he had not frisked or searched § 87(2)(b) at that point to see if he was carrying further weapons on his person. Police Officer Giaquinto drew the gun from the holster on his hip but did not point it at § 87(2)(b).

Police Officer Drozd-Spidle was not aware of Police Officer Giaquinto drawing or pointing his weapon at any time.

A subclip taken from Police Officer Giaquinto's BWC footage has been attached in IA #72 (Board Review #14). It shows Police Officer Giaquinto speaking to § 87(2)(b) at the rear of the vehicle. The camera does not show § 87(2)(b)'s hands or lower body. At 0:48 into the recordings, Police

Officer Giaquinto asks § 87(2)(b) “Do you have any other weapons?” § 87(2)(b) then states, “Calm down, calm down. I’m making a call man.” Police Officer Giaquinto states, “That’s fine. You can make a call. I don’t know what you’re reaching for, you understand?” § 87(2)(b) states, “You gotta calm down.” Police Officer Giaquinto states, “I’m calm.” § 87(2)(b) states, “You’re not being a gentleman. I’m a pedestrian, that’s it. I respect you and your job, but...” Police Officer Giaquinto states, “I appreciate that.” § 87(2)(b) states, “You just pulled a gun out on me.” Police Officer Giaquinto states, “You’re reaching for something. I don’t know what you have on your waist. I didn’t search you, you understand?” § 87(2)(b) states, “Brother, I can go in my pocket.” Police Officer Giaquinto states, “With... you have to ask first, it’s a courtesy. It’s for safety.” The video does not show if § 87(2)(b) reached into his pocket or what, if anything, Police Officer Giaquinto did with his gun during this exchange.

§ 87(2)(g)

NYPD Patrol Guide procedure 221-01 states that officers may draw or display firearms based on an articulable belief that the potential for serious physical injury is present. When an officer determines that this potential is no longer present, he or she will holster their firearm as soon as is practicable (Board Review #17).

§ 87(2)(g)

Allegation (C) Abuse of Authority: At 2137 Knapp Street in Brooklyn, Police Officer Vincent Giaquinto damaged § 87(2)(b) s property.

It is undisputed that § 87(2)(b) had a watch that was vouchered during his arrest. There was a crack on the watch’s face at the time it was vouchered. § 87(2)(b) retrieved the watch the next day after his arraignment.

§ 87(2)(b) stated that he was wearing the watch when Police Officer Giaquinto handcuffed him. Later, when he retrieved the watch, he found that its face had been shattered. § 87(2)(b) believed that Police Officer Giaquinto shattered the watch face while applying his handcuffs.

Police Officer Giaquinto did not recall if § 87(2)(b) was wearing a watch. He was not aware of any watches or jewelry belonging to § 87(2)(b) suffering damage during this incident. He did not recall any watches or jewelry being vouchered during § 87(2)(b) s arrest.

Police Officer Drozd-Spidle stated that § 87(2)(b) was wearing watch. She vouchered the watch during § 87(2)(b) s arrest processing at the stationhouse. She noticed then that the watch’s face was cracked. She denied that she or any other officer had caused the damage during the incident.

§ 87(2)(b)'s property voucher, prepared by PO Drozd-Spidle, states that a watch was vouchered for safekeeping during his arrest. The voucher notes that the watch's "lense" was cracked (Board Review #15). § 87(2)(b) displayed the damage to the watch during his CCRB interview. A photograph was taken to document the cracks on the watch's face (Board Review #18).

§ 87(2)(g)

Allegation (D) Abuse of Authority: At 2137 Knapp Street in Brooklyn, Police Officer Vincent Giaquinto seized § 87(2)(b)'s property.

Allegation (E) Abuse of Authority: At 2137 Knapp Street in Brooklyn, Police Officer Elizabeth Drozd-Spidle seized § 87(2)(b)'s property.

Allegation (F) Abuse of Authority: At the 61st Precinct stationhouse, Police Officer Vincent Giaquinto searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (G) Abuse of Authority: At the 61st Precinct stationhouse, Police Officer Elizabeth Drozd-Spidle searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that § 87(2)(b) was driving alone. § 87(2)(b) failed to produce a driver's license or a vehicle registration when asked. The officers eventually arrested § 87(2)(b) and charged him with, among other things, unlicensed operation of a motor vehicle. None of the officers searched § 87(2)(b)'s vehicle at 2137 Knapp Street after Police Officer Drozd-Spidle recovered the knives from the center console. § 87(2)(b)'s vehicle was transported to the 61st Precinct stationhouse, where Police Officer Giaquinto and Police Officer Drozd-Spidle conducted an inventory search. They recovered a starter pistol from inside the vehicle.

§ 87(2)(b) stated that he carried numerous items inside his vehicle at the time of his arrest besides the knives that Police Officer Drozd-Spidle removed. In the back seat of his car he had several articles of clothing and a box of Essentia Water. In the trunk was a pair of speakers, multiple bottles of cleaning supplies and a starter pistol. § 87(2)(b) did not observe any officers search the car at 2137 Knapp Street after Police Officer Drozd-Spidle removed the two knives. After his arrest, all the items from inside his vehicle were returned to him, save for the knives, the starter pistol and the Essentia Water. § 87(2)(b) was not present when his vehicle was searched at the stationhouse.

Police Officer Drozd-Spidle stated that § 87(2)(b)'s car was seized because it is standard procedure to take vehicles into custody when their drivers are arrested. She also noted that the vehicle was improperly parked in a commercial loading area. Police Officer Giaquinto stated that the vehicle was taken because § 87(2)(b) did not have a valid driver's license. Neither officer recalled who transported § 87(2)(b)'s vehicle. Once the vehicle arrived at the stationhouse, the two officers conducted an inventory search. No other officers assisted them in the search.

Both officers stated that they recovered a replica revolver from a black plastic bag found on the floorboard of the rear-right passenger's seat. Police Officer Giaquinto added that there were five rounds of ammunition with the revolver, one of which was spent. Police Officer Drozd-Spidle stated that they also found a box of Essentia Water, though she did not specify where it was. Neither officer recalled any other items that were recovered from the vehicle. The officers noted that the Essentia Water was disposed of because NYPD policy forbids officers from vouchering perishable food or beverages.

Police Officer Drozd-Spidle prepared property vouchers for § 87(2)(b)'s belongings (Board Review). § 87(2)(b)'s vehicle, a wooden-handled switchblade knife, a revolver, one shell casing and four cartridges were vouchered as arrest evidence. A second knife, a watch, jewelry, keys, clothing, perfume, credit cards, a benefit card, several articles of clothing, a set of speakers, various hygiene products and \$5 in cash were vouchered for safekeeping.

BWC footage recorded by Police Officer Drozd-Spidle and Police Officer Giaquinto, attached in IAs #52 and #56, show them searching § 87(2)(b)'s vehicle at the stationhouse (Board Review #08, #12). No other officers are seen assisting them. The officers recover an unseen object, which they describe as a "22," from the rear passenger's seat. This moment occurs at 8:50 into Police Officer Drozd-Spidle's recording, and 7:53 into Police Officer Giaquinto's recording.

A vehicle that is lawfully in police custody is subject to a routine inventory search to catalogue its contents. The lawful arrest of the vehicle's driver by itself does not justify impoundment. A car may be impounded if it was driven by an unlicensed driver or a driver whose license is suspended and there is no one who is legally able to drive the vehicle. People v. Francis, 12 Misc. 3d 781 (Sup. Ct., New York Cty., 2006) (Board Review #19).

NYPD Patrol Guide procedure 218-13 states that officers must "thoroughly" search the interior of any vehicle that comes into police custody. Any items found during such a search must be recorded in a property voucher (Board Review #20).

§ 87(2)(g)
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review #21).
- Police Officer Drozd-Spidle has been a member of the service for thirteen years and has been named as a subject in two previous CCRB complaints and two allegations, neither of which was substantiated. § 87(2)(g)
[REDACTED]
- Police Officer Giaquinto has been a member of the service for four years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of February 18, 2020, the NYC Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date